

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
	)	
v.	)	<b>CRIMINAL ACTION NO.</b>
	)	<b>CR-04-PT-0199-S</b>
	)	
<b>McWANE, INC., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM OPINION**

It is the present intention of the court to use the following procedure if the defendants take the position that a witness' testimony is contrary to a written note of a Government attorney:

- (1) The defendants' attorneys will bring the issue to the court's attention outside the presence of the jury.
- (2) The court will determine if there is a real conflict between the note and the testimony as opposed to only an insignificant difference.
- (3) If there is a substantial difference, the court will allow defense counsel to read the prior conflicting statement to the jury without stating the role of the prosecuting attorneys.

The parties may wish to prepare agreed upon typed transcripts of truly pertinent notes taken by agents or attorneys.

This 20th of April, 2005.



**ROBERT B. PROPST**

**SENIOR UNITED STATES DISTRICT JUDGE**